



City of Marietta

205 Lawrence Street
Post Office Box 609
Marietta, Georgia 30061

Meeting Minutes CITY COUNCIL

R. Steve Tumlin, Mayor
Annette Paige Lewis, Ward 1
Griffin "Grif" L. Chalfant, Jr., Ward 2
Johnny Sinclair, Ward 3
Irvan A. "Van" Pearlberg, Ward 4
Rev. Anthony C. Coleman, Ward 5
James W. King, Ward 6
Philip M. Goldstein, Ward 7

Wednesday, June 9, 2010

7:00 PM

Council Chamber

Presiding: R. Steve Tumlin, Mayor

Present: Jim King, Rev. Anthony Coleman, Grif Chalfant, Annette Lewis and Van Pearlberg

Absent: Johnny Sinclair and Philip M. Goldstein

Also Present:

William F. Bruton, Jr. City Manager

Douglas R. Haynie, City Attorney

Stephanie Guy, City Clerk

CALL TO ORDER:

Mayor Tumlin called the meeting to order at 7:00 p.m.

INVOCATION:

Mayor Tumlin called upon Council member Pearlberg to give the invocation.

PLEDGE OF ALLEGIANCE:

Mayor Tumlin called upon the Scout members present in the audience to lead the pledge of allegiance.

PRESENTATIONS:

PROCLAMATIONS:

ANNOUNCEMENTS OF GENERAL COMMUNITY INFORMATION BY THE MAYOR, COUNCIL AND/OR CITY MANAGER:

CONSENT AGENDA:

Consent agenda items are marked by an asterisk (*). Consent items are approved by majority of council.

A public hearing will be held only for those items marked by an asterisk that require a public hearing (also noted on agenda).

The following amendments were made to the consent agenda:

-under Minutes: Agenda item 20100339 was added from the consent agenda.

-under Ordinances: Agenda item 20100579 was amended to read, "...Future Land Use of said property as LDR..."

-under Parks and Rec: Agenda item 20100653 was amended to read, "...appointing Council members Jim King, Johnny Sinclair and one person from the CACMP, designated by the Chairman of the CACMP..."

-under Other Business:

A motion was made by Council member Lewis, seconded by Council member King, to suspend the rules of Council, by unanimous consent, to vote on agenda item 2010656 this month and add the matter to the consent agenda. The approved Ordinance would take effect immediately. The motion carried by the following vote:

Vote: 5 – 0 – 0

Approved

Mayor Tumlin opened the public hearing for items on the consent requiring a public hearing. Seeing no one wishing to speak, the public hearing was closed.

The motion was made by Council member King, seconded by Council member Pearlberg, to approve the consent agenda as modified. The motion unanimously carried by the following vote:

Vote: 5 - 0 - 0

Approved

with the following exceptions:

-Council member Lewis voting against agenda item 20100653.

-Council member Pearlberg and Coleman voting against 20100658.

MINUTES:

*** 20100707 Regular Meeting - May 12, 2010**

Review and approval of the May 12, 2010 regular meeting minutes.

This Matter was Approved on the Consent Agenda.

Vote: 5 - 0 – 0 Approved

*** 20100339 Executive Session Minutes**

Review and approval of Executive Session Minutes for
January 27, 2010
February 3, 2010
February 8, 2010
February 24, 2010

March 8, 2010
March 10, 2010
March 31, 2010
April 12, 2010
April 14, 2010
April 28, 2010
May 10, 2010
May 12, 2010

This Matter was Approved on the Consent Agenda.

Vote: 5 - 0 – 0 Approved

MAYOR'S APPOINTMENTS:

20100687 Marietta Housing Authority Appointment

Mayor's appointment to the Marietta Housing Authority Board of Commissioners for a five year term, Mitch Hunter. Term will commence June 3, 2010.

This matter was Approved by the Mayor

CITY COUNCIL APPOINTMENTS:

ORDINANCES:

- * **20100573 Z2010-06 Billie M. & Margurite A. Borders vacant property on Allgood Road**

[*Ord 7474*](#) Z2010-06 [REZONING] BILLIE M. & MARGURITE A. BORDERS request rezoning for property located in Land Lots 996 and 997, District 16, Parcels 109 and 5, 2nd Section, Marietta, Cobb County, Georgia and being known as vacant property on Allgood Road from R-20 [Single Family Residential (County)] to R-2 [Single Family Residential (City)]. Ward 5.

This Matter was Approved on the Consent Agenda.

Vote: 5 - 0 – 0 Approved

- * **20100574 A2010-02 Billie M. & Margurite Borders vacant property on Allgood Road**

[*Ord 7475*](#) A2010-02 [ANNEXATION] BILLIE M. & MARGURITE BORDERS request annexation for property located in Land Lots 996 and 997, District 16, Parcels 109 and 5, and being known as vacant property on Allgood Road, 2nd Section, Cobb County, Georgia consisting of 5.071 acres. Ward 5.

This Matter was Approved on the Consent Agenda.

Vote: 5 - 0 – 0 Approved

- * **20100575** **CA2010-04 Billie M. & Margurite A. Borders vacant property on Allgood Road**
- [Ord 7476](#) CA2010-04 [CODE AMENDMENT] BILLIE M. & MARGURITE A. BORDERS in conjunction with the requested annexation of property located in Land Lots 996 and 997, District 16, Parcels 109 and 5, 2nd Section, Marietta, Cobb County, Georgia, and being known as vacant property on Allgood Road, the City of Marietta proposes to designate the Future Land Use of said property as LDR (Low Density Residential). Ward 5.
- This Matter was Approved on the Consent Agenda.**
- Vote: 5 - 0 – 0 Approved**
- * **20100576** **Z2010-07 Stephen & Mary E. Borders 1001 Allgood Road**
- [Ord 7467](#) Z2010-07 [REZONING] STEPHEN & MARY E. BORDERS request rezoning for property located in Land Lot 996, District 16, Parcel 43, 2nd Section, Marietta, Cobb County, Georgia and being known as 1001 Allgood Road from R-20 [Single Family Residential (County)] to R-2 [Single Family Residential (City)]. Ward 5.
- This Matter was Approved on the Consent Agenda.**
- Vote: 5 - 0 – 0 Approved**
- * **20100578** **A2010-03 Stephen & Mary E. Borders 1001 Allgood Road**
- [Ord 7468](#) A2010-03 [ANNEXATION] STEPHEN & MARY E. BORDERS request annexation for property located in Land Lot 996, District 16, Parcel 43, and being known as 1001 Allgood Road, 2nd Section, Cobb County, Georgia consisting of 1.341 acres. Ward 5.
- This Matter was Approved on the Consent Agenda.**
- Vote: 5 - 0 – 0 Approved**
- * **20100579** **CA2010-05 Stephen & Mary E. Borders 1001 Allgood Road**
- [Ord 7477](#) CA2010-05 [CODE AMENDMENT] STEPHEN & MARY E. BORDERS in conjunction with the requested annexation of property located in Land Lot 996, District 16, Parcel 43, 2nd Section, Marietta, Cobb County, Georgia, and being known as 1001 Allgood Road, the City of Marietta proposes to designate the Future Land Use of said property as IW (Industrial Warehousing). Ward 5.
- This Matter was Approved on the Consent Agenda.**
- Vote: 5 - 0 – 0 Approved**

* **20100081 Proposed Revisions to Section, 706 regarding non-conforming uses**

[Ord 7470](#)

Approval of an Ordinance amending the nonconforming use regulations related to the requirement that a nonconforming building may not be rebuilt, altered or repaired if construction costs exceed 50% of its replacement costs.

This Matter was Approved on the Consent Agenda.

Vote: 5 - 0 – 0 Approved

RESOLUTIONS:

CITY ATTORNEY'S REPORT:

CITY MANAGER'S REPORT:

MAYOR'S REPORT:

COMMITTEE REPORTS:

1. Economic/Community Development: Grif Chalfant, Chairperson

* **20100655 2010 CDBG Projects/Additional Funds**

Res 1493

Approval of a Resolution authorizing the submittal of the City's Revised FFY'2010 CDBG Final Statement Projects List to Cobb County for inclusion in their submittal to the U.S. Department of Housing and Urban Development (HUD); and further, approving the additional CDBG FFY' 2010 funds the City may receive from actions by Congress be allocated to neighborhood redevelopment/housing rehabilitation and eligible Public Service projects.

This Matter was Approved on the Consent Agenda.

Vote: 5 - 0 – 0 Approved

2. Finance/Investment: Annette Lewis, Chairperson

* **20100607 Request for Transfer of Funds**

[Ord 7471](#)

Approval of an Ordinance approving an amendment to the Fiscal Year 2010 Budget to receive \$22,880 in insurance claim reimbursement and transfer to the General Fund to appropriate funds toward a replacement police patrol vehicle.

This Matter was Approved on the Consent Agenda.

Vote: 5 - 0 – 0 Approved

- * **20100631 Adoption of recommended Budget for FY2011**
- [Ord 7473](#) Approval of an Ordinance adopting an Annual Budget for the fiscal year beginning July 1, 2010 and ending June 30, 2011 for the various funds of the City of Marietta and enacting the tentative Ad Valorem tax levies for said fiscal year for support of the City of Marietta governmental operations and other public purposes, and debt service obligations.

This Matter was Approved on the Consent Agenda.

Vote: 5 - 0 – 0 Approved

- * **20100639 Finance/Tax division expenses increased from collecting back taxes**
- [Ord 7472](#) Approval of an Ordinance approving an amendment to the Fiscal Year 2010 General Fund budget to appropriate increased reimbursement revenue from back taxes to cover the cost of collection agency expenses.

This Matter was Approved on the Consent Agenda.

Vote: 5 - 0 – 0 Approved

3. Judicial/Legislative: Philip M. Goldstein, Chairperson

- * **20100507 Motion to approve the following changes to the Future Land Use map as part of the Comprehensive Plan update.**
- Z2008-03 75 Polk Street/ 16-12190-0500 87 Polk Street/ 16-12190-0020 99 Polk Street/ 16-12190-0520 FLU is recommended to change to CSI (Community Service and Institutional)
- Z2008-06 823 Damar Road/ 16-10180-0100 FLU is recommended to change to CSI (Community Service and Institutional)
- Z2008-10 321 Cole Street/ 16-11450-2220 FLU is recommended to change to NAC (Neighborhood Activity Center)
- Z2008-11 870 Industrial Park Drive/ 16-10180-0150 FLU is recommended to change to CSI (Community Service and Institutional) Z2009-08 315 Cole Street/ 16-11450-1330 FLU is recommended to change to NAC (Neighborhood Activity Center).

This Matter was Approved on the Consent Agenda.

Vote: 5 - 0 – 0 Approved

- * **20100637** **Clark Library**
- Motion authorizing advertising for a public hearing on the ordinance designating the Clarke Library as a historic property.
- This Matter was Approved on the Consent Agenda.**
- Vote: 5 - 0 – 0 Approved**
- * **20100638** **Brumby Hall**
- Motion authorizing advertising for a public hearing on the ordinance designating Brumby Hall as a historic property.
- This Matter was Approved on the Consent Agenda.**
- Vote: 5 - 0 – 0 Approved**
- * **20100640** **Marietta Waterworks Building**
- Motion authorizing advertising for a public hearing on the ordinance designating the Marietta Waterworks as a historic property.
- This Matter was Approved on the Consent Agenda.**
- Vote: 5 - 0 – 0 Approved**

4. Parks, Recreation and Tourism: Johnny Sinclair, Chairperson

- * **20100653** **Operation of the Aviation Sports Complex**
- Motion to approve the Citizen's Advisory Committee for Marietta Parks (CACMP) recommendation to operate a baseball/softball program at the Aviation Sports Complex through a private firm, and appointing Council members Jim King, Johnny Sinclair and one person from the CACMP, designated by the Chairman of the CACMP, as council liaisons to participate with staff to begin negotiations with 6-4-3 DP, LLC for those operations.
- Motion to approve the Citizen's Advisory Committee for Marietta Parks (CACMP) recommendation to operate a baseball/softball program at the Aviation Sports Complex through a private firm, and appointing Council members Jim King, Johnny Sinclair and one person from the CACMP, designated by the Chairman of the CACMP, as council liaisons to participate with staff to begin negotiations with 6-4-3 DP, LLC for those operations.*
- This Matter was Approved on the Consent Agenda.**
- Vote: 4 - 1 – 0 Approved**
- Voting Against: Annette Lewis

* **20100700 Exploration of Custer Park for a Soccer Facility**

Motion to approve the recommendation of the Citizen's Advisory Committee for Marietta Parks (CACMP) to explore the use of Custer Park for a soccer facility.

This Matter was Approved on the Consent Agenda.

Vote: 5 - 0 – 0 Approved

* **20100701 Improvements to existing parks with the 2009 Bond proceeds**

Motion to authorize expenditures for improvements to existing parks as recommended by the Citizen's Advisory Committee for Marietta Parks (CACMP) and amended by council as attached.

This Matter was Approved on the Consent Agenda.

Vote: 5 - 0 – 0 Approved

* **20100702 Authorization to proceed with planning for parks improvements**

Motion to approve recommendations of the Citizen's Advisory Committee for Marietta Parks (CACMP) to proceed with planning for improvements to 1) Laurel Park (viewing decks and shade structures), 2) Lewis Park (shade structure(s) in the off-leash area), 3) installation of trail lighting at Whitaker Park, and 4) installation of lighting for the parking lot and off-leash area in Wildwood Park. Staff shall bring back designs and estimated costs to the City Council prior to implementation.

This Matter was Approved on the Consent Agenda.

Vote: 5 - 0 – 0 Approved

5. Personnel/Insurance: Van Pearlberg, Chairperson

* **20100662 Position allocation and compensation plan**

[Ord 7478](#)

Approval of an Ordinance adopting the position allocations to departments for the City of Marietta and the Board of Lights and Water and the City of Marietta/BLW position classification and compensation plans for the period of July 4, 2010 to June 30, 2011.

This Matter was Approved on the Consent Agenda.

Vote: 5 - 0 – 0 Approved

6. Public Safety Committee: Anthony Coleman, Chairperson

* **20100626 Standard Operating Procedures**

Motion approving revisions to the following Standard Operating Procedures for the Marietta Police Department: A010 Written Directives, A025 Electronic Control Weapons, A041 Organizational Structure, A052 Detention & Housing of Detainees, A060 Evidence & Property Maintenance, A070 Departmental Forms & Reports, E010 Special Weapons and Tactics, E020 Barricaded Incidents, S030 Criminal Investigations, T040 Firearms Regulations & Qualifications, T050 Training.

This Matter was Approved on the Consent Agenda.

Vote: 5 - 0 – 0 Approved

7. Public Works Committee: Jim King, Chairperson

20100650 Coggins Place

Motion to authorize the abandoning and closing of a portion of Coggins Place within The City of Marietta.

Public Hearing Required

Mayor Tumlin opened the public hearing regarding this matter. Seeing no one wishing to speak, the public hearing was closed.

The motion was made by Council member King, seconded by Council member Chalfant, that this matter be Approved. The motion carried by the following vote:

Vote: 5 - 0 – 0 Approved

* **20100646 Three (3) way stop sign at Forest Ave. and No. Forest Ave.**

Motion authorizing Public Works to perform a stop sign warrant analysis at Forest Avenue and North Forest Avenue.

This Matter was Approved on the Consent Agenda.

Vote: 5 - 0 – 0 Approved

* **20100647 Blackwell Lane Speed Limit**

Motion authorizing Public Works to install 25MPH speed limit signs along Blackwell Lane.

This Matter was Approved on the Consent Agenda.

Vote: 5 - 0 – 0 Approved

Mayor Tumlin left the Council Chamber and Mayor Pro tem presided over this portion of the meeting.

20100648 First Landmark Bank

Motion approving a request by First Landmark Bank for access easement under Cole Street.

Mayor Steve Tumlin has an ownership interest in First Landmark Bank.

Council Member Goldstein disclosed that the First Landmark Bank leases parking spaces at 48 Atlanta Street and is a subtenant in an adjacent building. Council Member Goldstein does not have any ownership interest in First Landmark Bank or in First Landmark Bank's new location.

The motion was made by Council member King, seconded by Council member Pearlberg, that this matter be Approved. The motion carried by the following vote:

Vote: 4 - 1 – 0 Approved
Voting Against: Rev. Anthony Coleman

Mayor Tumlin returned to the Council Chamber.

* **20100649 North Marietta Substation**

Motion accepting \$7,820 in exchange for Easement for Ingress and Egress to Georgia Transmission Corporation for access to the North Marietta Sub Station across Armory Drive.

This Matter was Approved on the Consent Agenda.

Vote: 5 - 0 – 0 Approved

* **20100688 SCADA Project - Marietta Power Fiber Project**

Motion to approve request from Marietta Power for variance from the Underground Utilities Ordinance on various city streets as shown on the attached preliminary cable route list, as part of the Marietta Power control systems fiber connectivity project. Approval is given for areas where existing lines are aboveground. If lines are buried underground in the future where the fiber lines are installed, the fiber lines will also go underground.

This Matter was Approved on the Consent Agenda.

Vote: 5 - 0 – 0 Approved

* **20100658 Cobb County Parking Deck**

Review and approval of a request for an easement for foundations for the new parking deck for Cobb County.

This Matter was Approved on the Consent Agenda.**Vote: 3 - 2 - 0 Approved**

Voting Against: Rev. Anthony Coleman and Van Pearlberg

SCHEDULED APPEARANCES:**20100711 Orbit Visual Entertainment**

Ms. Tiffani Howard will present Stimulate America Concept by Orbit Visual Entertainment.

This matter was Presented**UNSCHEDULED APPEARANCES:****OTHER BUSINESS:***** 20100656 Council gatherings for social get-togethers and informal discussion**[Ord 7469](#)

Approval of Ordinance amending Section 1-4-040 W. Council gatherings to read, "The City Manager is hereby directed to post notices in compliance with the Georgia Open Meetings Law in instances which a gathering of a quorum of the Mayor and City Council is reasonably likely to occur and such possibility is to be construed liberally by the City Manager. Such notice shall state that no voting may occur nor official acts taken at such gathering. The purpose of said quorum gathering shall include, but not limited to, informal discussions, educational and social meetings wherever located and of whatever nature."

This Matter was Approved on the Consent Agenda.**Vote: 5 - 0 - 0 Approved***** 20100712 Condemnation of Property - 1184 Franklin Road**

Motion to authorize the acquisition of property owned by Franklin K&S, Inc. on behalf of the City of Marietta by means of eminent domain. A description of the interest to be acquired is attached hereto and incorporated herein by reference, including the legal description of the property and a survey of such property. The city attorney is hereby authorized and directed to take any and all action necessary to acquire such property by virtue of eminent domain, including the right to file any appeals in such case. The Order Authorizing Condemnation attached is incorporated herein by reference.

This Matter was Approved on the Consent Agenda.**Vote: 5 - 0 - 0 Approved**

* **20100713 Condemnation of Property - 505 Freyer Drive**

Motion to authorize the acquisition of property owned by Thomas E. Koch on behalf of the City of Marietta by means of eminent domain. A description of the interest to be acquired is attached hereto and incorporated herein by reference, including the legal description of the property and a survey of such property. The city attorney is hereby authorized and directed to take any and all action necessary to acquire such property by virtue of eminent domain, including the right to file any appeals in such case. The Order Authorizing Condemnation attached is incorporated herein by reference.

This Matter was Approved on the Consent Agenda.

Vote: 5 - 0 – 0 Approved

* **20100714 580 Franklin Road (St. Augustine Place Condominiums)**

Motion authorizing acquisition of right of way and easement at 580 Franklin Road from Augustine Place Condominiums in exchange for \$35,791.35 for the purpose of Franklin Road Improvements Project.

This Matter was Approved on the Consent Agenda.

Vote: 5 - 0 – 0 Approved

20090829 V2009-18 [VARIANCES] PARADISE GROUP MARIETTA, LLC AND SWIFT LAND COMPANY

Motion to approve V2009-18 [VARIANCES] PARADISE GROUP MARIETTA, LLC AND SWIFT LAND COMPANY variances for property located in Land Lots 577 and 578, District 17, Parcel 30 and being known as 455 Franklin Road. Variance to waive requirement that general advertising signs and off-premise signs be regulated as a principal use; Variance to allow a general advertising sign or off-premise sign to be located within a 1,000 foot radius of another general advertising sign or off-premise sign; Variance to allow a general advertising sign or off-premise sign be erected on a lot upon which a building and signage is located; Variance to allow a general advertising sign or off-premise sign be located closer to a permanent structure than the distance that is equal to the height of the sign; Variance to allow a general advertising sign or off-premise sign be erected on a property which has an existing sign. Ward 7.

Mayor Tumlin called forward those wishing to speak regarding this matter.

Brian Binzer, Director of Development Services, explained that the applicant for Paradise Group Marietta and Swift Land Company have requested variances for property known as 455 Franklin Road (Hampton Inn). The requested variances include a variance to waive requirement that general advertising signs and off-premise signs be regulated as a principal use; Variance to allow a general advertising sign or off-premise sign to be located within a 1,000 foot radius of another general advertising sign or off-premise sign; Variance to allow a general advertising sign or off-premise sign be erected on a lot upon which a

building and signage is located; Variance to allow a general advertising sign or off-premise sign be located closer to a permanent structure than the distance that is equal to the height of the sign; Variance to allow a general advertising sign or off-premise sign be erected on a property which has an existing sign.

Mark Forsling with Schreeder, Wheeler and Flint, LLP, attorney for the applicant, presented justification for the aforementioned variance request.

Discussion was held by Council.

Motion to deny the variance request.

The motion was made by Council member King, seconded by Council member Chalfant, that this matter be Denied. The motion carried by the following vote:

Vote: 4 - 1 - 0 Approved

Voting Against: Van Pearlberg

*** 20100716 BLW Actions of June 7, 2010**

Review and approval of the June 7, 2010 actions and minutes of the Marietta Board of Lights and Water.

This Matter was Approved on the Consent Agenda.

Vote: 5 - 0 - 0 Approved

ADJOURNMENT:

The meeting was adjourned at 8:05 p.m.

Date Approved: July 14, 2010

R. Steve Tumlin, Mayor

Attest: _____
Stephanie Guy, City Clerk